

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Harrison	Team: Team # 2	CCRB Case #: 201107784	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/15/2011 7:00 PM	Location of Incident: East 213th Street and White Plains Road	Precinct: 47	18 Mo. SOL 12/15/2012	EO SOL 12/15/2012	
Date/Time CV Reported Thu, 06/16/2011 12:07 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 06/16/2011 12:07 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brandon Ravelo	26010	948409	PBBX
2. POM Carlos Perez	26639	948262	PBBX

Officer(s)	Allegation	Investigator Recommendation
A.POM Carlos Perez	Abuse: PO Carlos Perez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Brandon Ravelo	Abuse: PO Brandon Ravelo stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Brandon Ravelo	Discourtesy: PO Brandon Ravelo spoke obscenely to § 87(2)(b)	
D.POM Brandon Ravelo	Abuse: PO Brandon Ravelo searched § 87(2)(b)	
E.POM Brandon Ravelo	Abuse: PO Brandon Ravelo searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(4-b), § 87(2)(g)	§ 87(4-b), § 87(2)(g)	

### Case Summary

On June 16, 2011, at 12:07 p.m., § 87(2)(b) filed this complaint with the CCRB via telephone (encl. 4A-B). On June 15, 2011, at approximately 7:00 p.m., § 87(2)(b) and § 87(2)(b) were stopped by PO Brandon Ravelo and PO Carlos Perez. The following allegations resulted:

- **Allegation A – Abuse of Authority:** PO Carlos Perez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.
- **Allegation B – Abuse of Authority:** PO Brandon Ravelo stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g)
- **Allegation C – Discourtesy:** PO Brandon Ravelo spoke obscenely to § 87(2)(b) § 87(2)(g)
- **Allegation D – Abuse of Authority:** PO Brandon Ravelo searched § 87(2)(b)
- **Allegation E – Abuse of Authority:** PO Brandon Ravelo searched the car in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g)
- § 87(4-b), § 87(2)(g)

### Results of Investigation

#### Civilian Statement

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) a Hispanic male § 87(2)(b) who stands 5'10", weighs 200 lbs., and has black hair and brown eyes, is § 87(2)(b) years old.

On June 16, 2011, at 12:07 p.m., § 87(2)(b) filed this complaint with the CCRB via telephone (encl. 4A-B). On June 17, 2011, and June 29, 2011, § 87(2)(b) gave phone statements (encl. 5A, 8A). On June 27, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 7A-E). § 87(2)(g)

On Wednesday, June 15, 2011, at approximately 7:30 p.m., § 87(2)(b) and his coworker, § 87(2)(b) parked § 87(2)(b)'s black, 2007 Chevy Impala underneath a train overpass at White Plains Road and East 213 Street in the Bronx. § 87(2)(b) was driving. The windows of the vehicle, which were tinted, were rolled down. As § 87(2)(b) parked his car, he heard a nearby police van briefly sound its siren, but did not think that it had anything to do with him. § 87(2)(b) rolled up his vehicle windows, and he and § 87(2)(b)

§ 87(2)(b) exited the vehicle. PO Ravelo (identified by name and shield number) and PO Perez (identified by name) exited the police van and approached § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) had gotten a few feet away from § 87(2)(b)'s car when PO Ravelo told § 87(2)(b) to get the “fuck” back in his car. § 87(2)(b) asked PO Ravelo how he could help him and whether he had done something wrong. PO Ravelo told § 87(2)(b) to do what the “fuck” he told him and sit in his car. § 87(2)(b) got in the driver’s seat of his car and left the door open. Without being asked to do so, § 87(2)(b) retrieved his driver’s license and an SBA card from his driver’s side visor and gave them to PO Ravelo. PO Ravelo told § 87(2)(b) to roll down his windows. § 87(2)(b) put his keys in the ignition to turn on his car to roll down his windows, but, before he could turn the vehicle on, PO Ravelo grabbed his left arm, twisted it behind his back, and pulled him out of the vehicle. PO Ravelo handcuffed § 87(2)(b). § 87(2)(b) did not physically resist the officer. PO Ravelo made § 87(2)(b) stand at the back of the vehicle and instructed him to “fucking” spread his legs.

§ 87(2)(b) was also removed from the vehicle and handcuffed. § 87(2)(b) was not paying attention to how this happened. The officers took no other police action toward § 87(2)(b). § 87(2)(b) made no statements during this incident and had a calm demeanor throughout.

PO Ravelo opened all four doors of § 87(2)(b)'s vehicle and searched the interior of the vehicle. PO Ravelo searched inside the glove compartment and center console and removed compact discs from the center console. § 87(2)(b) deduced after the incident that PO Ravelo had looked behind his back passenger seats because the seats were creased in a way that suggested that they had been bent down.

PO Ravelo then frisked § 87(2)(b) and searched his pants pockets, socks, and waist band area. PO Ravelo removed all of § 87(2)(b)'s possessions from his pockets. PO Ravelo asked § 87(2)(b) if he was “stupid” and told him that all he had had to do was shut up and sit down. PO Ravelo asked § 87(2)(b) if he thought that he cared about marijuana. § 87(2)(b) did not know what this statement referred to. § 87(2)(b) had no marijuana on his person or in his vehicle, had not smoked marijuana recently, and had not engaged in any drug transactions at the location prior to being stopped. § 87(2)(b)'s vehicle did not smell of marijuana.

Two marked patrol cars carrying PO1, PO2, PO3, and PO4 arrived. PO1 was a black male; PO2 was a Hispanic male; and PO3 and PO4 were white males. § 87(2)(b) did not have any interaction with these officers and could not describe the officers in more detail. PO Ravelo told the officers that “this asshole” § 87(2)(b) was making a big spectacle about marijuana and that he [PO Ravelo] did not care about marijuana. PO Ravelo asked § 87(2)(b) where he had come from, what he was doing in the area, and from whom he had gotten his SBA card. § 87(2)(b) did not respond to any questions. § 87(2)(b) asked PO Ravelo for his shield number and PO Ravelo complied. At the end of the incident, PO Ravelo told § 87(2)(b) that he had been stopped because of the tints on his car windows. § 87(2)(b) and § 87(2)(b) were released and no summonses or arrests resulted from this incident.

### **Attempts to Contact Civilians**

§ 87(2)(b) refused to provide contact information for § 87(2)(b) SPRINT § 87(2)(b) listed § 87(2)(b)'s name and date of birth (encl. 14A). The Department of Motor Vehicles database listed an address for § 87(2)(b) (encl. ). This address was corroborated by an entry in PO Perez's memo book. Two letters were sent to § 87(2)(b) on June 29, 2011, and July 5, 2011. On August 17, 2011, one of these letters was received at the CCRB marked return-to-sender. A phone number for § 87(2)(b) was obtained via Lexis Nexis. On June 29, 2011, a call was made to the number and an automated message stated that the number was invalid. No number was listed for § 87(2)(b) in the Coles Directory. § 87(2)(b) has not contacted the investigator. According to the New York City Department of Correction Inmate Lookup Service and the New York State Inmate Population Information Search, § 87(2)(b) was not incarcerated as of November 17, 2011.

### **NYPD Statements:**

#### **Subject Officer: PO BRANDON RAVELO**

- *A Hispanic male who stands 5'8" tall, weighs 200 lbs., and has black hair and brown eyes, and is § 87(2)(b) old.*
- *Worked on June 15, 2011, from 2:00 p.m. to 10:35 p.m., assigned to an Impact unit in marked RMP 8520 with PO Carlos Perez, in uniform.*

#### **Memo Book Entries**

At 7:00 p.m., car stop West 213<sup>th</sup> Street and White Plains Road, [license plate] § 87(2)(b)

§ 87(2)(b)  
§ 87(2)(b) :07 p.m., 93Q UF-250. (encl. 11A-C)

#### **Stop Question and Frisk Report** § 87(2)(b)

A Stop Question and Frisk Report prepared by PO Ravelo regarding the stop of § 87(2)(b) states that § 87(2)(b) was stopped due to the odor of marijuana in his vehicle (encl. 12A). The report notes that the following force was used: "hands on suspect," and "handcuffing suspect." The report states that § 87(2)(b) was frisked for the following reasons: "furtive movements," "refusal to comply with officer's direction(s)." The report states that § 87(2)(b) was not searched. The report states that marijuana stems were recovered and that § 87(2)(b)'s demeanor was "violent." The following additional circumstances are listed: "area has high incidence of reported offense of type under investigation," "time of day, day of week, season corresponding to reports of criminal activity," "evasive, false or inconsistent response to officer's questions," "changing direction at sight of officer/flight."

#### **CCRB Testimony**

PO Ravelo was interviewed at the CCRB on September 7, 2011 (encl. 10A-C). On June 15, 2011, PO Ravelo and PO Perez were in their police vehicle, parked at the corner of West 213<sup>th</sup> Street and White Plains Road. The officers observed a vehicle with illegally tinted windows drive up to the corner in the right lane and then make a wide left turn and start to park on the side of the street. The officers pulled out of their parking spot and signaled for the civilian vehicle to pull over as the civilian vehicle was in the process of parking on the side of the street. PO Ravelo approached the driver's window of the civilian vehicle and PO Perez approached the front passenger window. PO Ravelo stopped at the back driver-side panel of the civilian vehicle and instructed the motorist to roll down his windows. As soon as the motorist rolled down the window, PO Ravelo smelled marijuana smoke coming from the vehicle. As PO Ravelo approached the driver's window, he saw what he believed to be the remnants of smoked

marijuana in a cup of water in the center console of the civilian vehicle. When PO Ravelo arrived at § 87(2)(b)'s window, PO Ravelo observed that § 87(2)(b)'s eyes were red, a symptom consistent with marijuana inhalation.

PO Ravelo asked § 87(2)(b) for his license and registration at least three times. § 87(2)(b) did not comply and repeatedly asked the officer why he had to give his license and registration. Before his final request for § 87(2)(b)'s license and registration, PO Ravelo warned § 87(2)(b) that he would not request the materials again. § 87(2)(b) failed to comply, and PO Ravelo opened up § 87(2)(b)'s door and asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) complied. PO Ravelo did not physically guide § 87(2)(b) out of the vehicle. PO Ravelo instructed § 87(2)(b) to hands onto the hood of the car and then frisked § 87(2)(b) from his torso down to his ankles. § 87(2)(b) twitched whenever PO Ravelo tried to frisk his waistband area and took his hands off the hood of the car. PO Ravelo told § 87(2)(b) to put his hands back on the hood of the car and stop twitching. § 87(2)(b) did not comply, so PO Ravelo handcuffed § 87(2)(b). PO Ravelo had § 87(2)(b) stand at the back of his vehicle and finished frisking § 87(2)(b). PO Ravelo instructed § 87(2)(b) to spread his legs, but did not tell § 87(2)(b) to spread his “fucking” legs. PO Ravelo asked § 87(2)(b) why he was being uncooperative and told him that the incident just concerned a summons for marijuana and that he did not need to act uncooperatively. PO Ravelo did not call recall with certainty how he obtained § 87(2)(b)'s license, but stated that it was possible that he retrieved it from § 87(2)(b)'s pocket after § 87(2)(b) was handcuffed. PO Ravelo performed no other search of § 87(2)(b). PO Perez frisked but did not search § 87(2)(b).

PO Ravelo retrieved the cup of water with smoked marijuana from the vehicle. The marijuana had disintegrated in the water. PO Ravelo opened all four doors of the civilian vehicle and searched on, under, and the areas immediately around the front seats of the vehicle. PO Ravelo did not open the vehicle trunk and did not open any compartments or containers inside the vehicle. No further evidence was obtained from the search.

PO5 and PO6—both male Impact officers assigned to foot posts—walked by the location and joined PO Ravelo and PO Perez. PO Ravelo could not recall the names or descriptions of PO5 or PO6. A group of unidentified individuals walked past the incident and yelled profanities at the officers as they passed but did not otherwise intervene. The officers ignored the individuals.

PO Ravelo ran a warrant check on § 87(2)(b) and the passenger and found that there were no warrants for either individual. PO Ravelo exercised his discretion not to issue a summons to § 87(2)(b) and § 87(2)(b) warned and admonished them, and released them. PO Ravelo prepared a Stop, Question, and Frisk Report regarding the incident. Neither PO Ravelo nor any other officer used any profanity whatsoever. PO Ravelo did not refer to § 87(2)(b) as “stupid.”

**Subject Officer: PO Carlos PEREZ**

- *A Hispanic male who stands 5'9" tall, weighs 250 lbs., and has brown hair and green eyes, is § 87(2)(b) old.*
- *Worked on Wednesday, June 15, 2011, from 2:00 p.m. to 10:35 p.m., assigned to an Impact unit in a marked van with PO Brandon Ravelo, in uniform.*

**Memo Book Entries**

PO Perez had the following entry from June 16, 2011, on the unlined flypaper of his memo book: 8:06 p.m., § 87(2)(b) address § 87(2)(b) stopped at East 213<sup>th</sup> Street and White Plains Road. (encl. 9A-C)

### **CCRB Testimony**

PO Perez was interviewed at the CCRB on August 10, 2011 (encl. encl. 10A-C). § 87(2)(g) PO Perez stated that the marijuana observed in the car was a used marijuana cigarette. After PO Ravelo retrieved the cup of water containing the used marijuana cigarette from the car's center console, PO Ravelo conducted no further search of the car, such as opening the cars back doors or looking under and seats in the car. § 87(2)(b) consented to PO Ravelo removing his license from his pocket. PO Perez frisked and handcuffed § 87(2)(b) PO Perez and PO Ravelo did not measure the tints of § 87(2)(b)'s windows because they had been distracted by § 87(2)(b)'s uncooperative behavior and their police actions regarding the marijuana.

### **NYPD Documents**

#### ***Police Communication Records***

SPRINT § 87(2)(b) stated that officers assigned to the RMP 8520 (determined by investigation to be PO Ravelo and PO Perez) stopped and requested warrant checks of § 87(2)(b) and § 87(2)(b) (both identified in the SPRINT by name and date of birth) (encl. 14A). The warrant checks were negative. The final disposition of the incident was listed as 10-93Q, meaning that no arrest occurred and a report was prepared. The type of report prepared was not specified.

#### ***Unavailable Documents***

PO Ravelo's CCRB testimony and memo book entries indicate that at least one Stop, Question, and Frisk Report, was prepared regarding the incident § 87(2)(g) SPRINT § 87(2)(b) which states that an unspecified report was prepared. On June 17, 2011, July 17, 2011, and October 17, 2011, the undersigned sent requests to the MAS unit for electronic copies of any Stop, Question, and Frisk reports regarding the incident and for the Stop, Question, and Frisk report index (encl. 21A, E, F). Additionally, on September 22, 2011, Det. Ivan McFarlane (903171) of the IAB/CCRB Liaison forwarded the investigator an a copy of the electronic Stop, Question, and Frisk Report index (encl. 15B-C). No reports regarding the incident could be obtained and none were listed in the electronic Stop, Question, and Frisk Report index (encl. 15A-C).

On June 29, 2011, the investigator submitted a document request via the IAB/CCRB Liaison to the 47<sup>th</sup> Precinct for a copies of any handwritten Stop, Question, and Frisk Reports regarding the incident and the precinct's handwritten Stop, Question, and Frisk Report log for June 15, 2011. On September 22, 2011, Det. McFarlane informed the investigator that the 47<sup>th</sup> Precinct was behind on compiling its handwritten Stop, Question, and Frisk Report log for June 15, 2011. On November 1, 2011, the undersigned requested the assistance of Lt. Thomas Swanson (tax 918664) in obtaining the requested documents. On November 3, 2011, Lt. Swanson forwarded the investigator a copy of the PO Ravelo's handwritten Stop Question and Frisk Report 2011-047-3775 regarding the incident (encl. 12A). Lt. Swanson stated that he had been informed by the 47<sup>th</sup> Precinct that no other report regarding the incident could be found and the handwritten Stop, Question, and Frisk Report log still had not been compiled.

## Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of November 4, 2011, with regard to the incident (encl. 20C).

### Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

## Civilian CCRB History

- § 87(2)(b) has filed the following CCRB complaints (encl. 3A):

- § 87(2)(b)

## Subject Officer CCRB Histories

- PO Carlos Perez has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Brandon Ravelo has been a member of the service for two years and there are no substantiated CCRB allegations against him. (encl. 2B).

## Conclusion

## Identification of Subject Officer

PO Perez and PO Ravelo confirmed their participation in this incident.

## Allegations Not Pled

§ 87(2)(g)

## Investigative Findings and Recommendations

**Allegation A – Abuse of Authority: PO Carlos Perez stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B – Abuse of Authority: PO Brandon Ravelo stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants. PO Perez and PO Ravelo both stated that**

they stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants because they suspected that the windows of the vehicle were unlawfully tinted. § 87(2)(b) confirmed that every window of his vehicle other than his front windshield is tinted and that PO Ravelo informed him that the reason he and § 87(2)(b) had been stopped was because his car windows were tinted. Although no summons resulted, it is undisputed that PO Perez and PO Ravelo had a legitimate basis to stop the car in which § 87(2)(b) and § 87(2)(b) were occupants in order to investigate the tints of the car windows. § 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: PO Brandon Ravelo spoke obscenely and rudely to** § 87(2)(b) § 87(2)(b) alleged that PO Ravelo told him to get the “fuck” in his car, to do what the “fuck” he told him, and to “fucking” spread his legs, asked him if he was “stupid,” and referred to him as an “asshole.” § 87(2)(b) could not be reached to provide a statement regarding the incident. PO Ravelo and PO Perez denied that PO Ravelo used any profanity or discourteous language during the incident. § 87(2)(g)

§ 87(2)(g)

**Allegation D – Abuse of Authority: PO Brandon Ravelo searched** § 87(2)(b)  
**Allegation E – Abuse of Authority: PO Brandon Ravelo searched the car in which** § 87(2)(b) § 87(2)(b) **and** § 87(2)(b) **were occupants.** PO Ravelo and PO Perez both stated (1) that they smelled the scent of smoked marijuana emanating from § 87(2)(b)'s car, and (2) that they observed what appeared to be saw a smoked marijuana in a cup of water in the car. § 87(2)(b) denied that there was any scent of marijuana in the car and denied that he or § 87(2)(b) possessed or had recently smoked marijuana at the time of the incident.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)



§ 87(2)(g) [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

When an officer possesses probable cause to arrest a defendant in a car stop for marijuana possession, the officer is permitted to conduct a full search of the car, including its trunk, regardless of whether the officer actually arrests the defendant (People v. Morgan, 10 A.D.3d 369, 2<sup>nd</sup> Dept., 2004) (encl. 1A-B). § 87(2)(g)

[Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]  
[Redacted]  
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Team: \_\_\_\_\_

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Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date